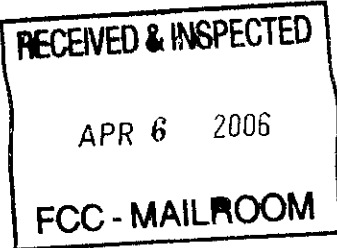


SELF COPY ORIGINAL

SYCAMORE
COMMUNITY SCHOOLS

4881 Cooper Road • Cincinnati, Ohio 45242-6996
(513) 791-4848 • Fax (513) 791-4873



April 4, 2006

Request for Review
CC Docket No. 02-6

To whom it may concern:

I am writing to Appeal the denial of funding for Internet services for the Sycamore Community School District from the following service provider: Hamilton Clermont Cooperative Association – Spin # 143024403. Our BEN # is 129890. The Form 471 # is 461129. The FRN # is 1267360.

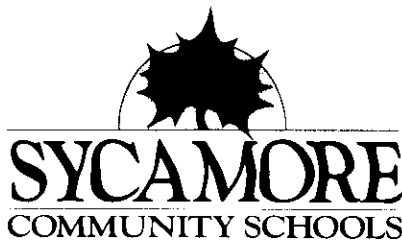
The reason for denial of FRN 1267360 was given as follows: “28 day waiting period violated. A contract for a new service was signed prior to the required 28 day waiting period computed from the date of the posting of the Form 470 to the SLD Web Site.”

It is our belief that the PIA reviewer Mr. John E. Harvey Jr., Associate Manager, made an error in the review of our Form 471. He did not clearly understand that the funding request was for the second year of a longer-term contract (as indicated on the FRN in Item 15d) and that there was an enabling Form 470 available for this funding request. I indicated in Item 15 (d) on the Form 471 461129 that FRN 1267360 was the second year of a multi-year contract that was established under Form 470 #650410000488364. That Form 470 #650410000488364 was posted on 01/01/2004 and had an allowable contract date of 01/29/2004. I had, due to inexperience, mistakenly inserted the Form 470 number from 2005 #483560000518441 in Item 12 of the FRN.

The SLD denied our appeal stating that the information we provided them did not correct the CAD being before the ACD of 01/18/2005. In our appeal we demonstrated evidence contrary to their denial the evidence we provided clearly indicated that the mistake was corrected by the information that we provided in the appeal. I am including a copy of the email that was sent to SLD providing them with the correct 470 # for this particular FRN. (see Attachment 01, fax correspondence with the SLD)

We believe this error caused an exception that should have been seen and could have been easily corrected since I had indicated that the funding request was for the second year of a 3 year contract in Item 15d on the Form 471 and entered the FRN 1267360 and PIA had that information readily available in their records. That FRN was correctly enabled by Form 470 483560000518441. The contract award date in 2004 would clearly be after the 28 day waiting period for the correct Form 470.

cc: Copies rec'd 0
List A B C D E



4881 Cooper Road • Cincinnati, Ohio 45242-6996
(513) 791-4848 • Fax (513) 791-4873

I believe that not only did we provide the correct Form 470 number enabling the approved contract, but that clear evidence was available in established PIA records of our previous year's E-rate filings to indicate the timeliness of the service through the enabling Form 470 identified in email exchanges with the SLD's PIA reviewer. Recent FCC appeal decisions (Glendale Unified School District, DA06-244, and Pasadena Unified, DA06-486) provide direction to SLD/PIA reviewers that they should review and consider information already in their possession before denying funding requests for inadvertent and easily correctable errors in initial data entry. The FCC decision on Pasadena Unified's appeal states:

"As an initial matter, we note that reasonable inquiry by USAC and better communication between USAC and the applicant could have resolved the issues that we now face in these Requests for Review. While we have previously noted that the burden of timely and accurately filing rests with the applicant, we are compelled to remind USAC that it retains an obligation to conduct a reasonable inquiry into the filings and materials that USAC itself has in its possession."
(Pasadena Unified appeal decision DA06-486 at Para. 9)

I believe that our situation is very comparable to the previous FCC appeal situations and findings above and hope our appeal has a similar resolution. This funding request was correctly approved in its first year of funding and shown to have a timely enabling Form 470. That same Form 470 should be allowed to enable the second year of funding. I respectfully request that you approve this appeal and/or grant a waiver due to the fact that we clearly provided information to establish the correct Form 470 to enable the second year funding of our contracted service and restore funding request 1267360 to review and ultimate approval. Do not hesitate to contact me should you have any further questions.

Sincerely,

Mark E. Souders
Director of Technology
Sycamore Community Schools
5040 Aldine Drive
Cincinnati OH 45242

(513) 686-1790
soudersm@sycamoreschools.org

USAC Fax 12/06/2005

2

USAC Fax 01/27/2006

3

USAC Denial 02/28/2006

4

5

6

7

8

9

10



Date: 12/06/2005

To: John E. Harvey, Jr. Associate Manager
USAC

From: Mark E. Souders, Director of Technology
Sycamore Community Schools
App# 461129-jh

Pages = 6

Faxed 12/06/05

3:05 PM



Universal Service Administrative Company

Schools & Libraries Division

Nov 28, 2005

Mark E. Souders

SYCAMORE COMM SCHOOL DISTRICT

Telephone:

(513) 6861790

Application Number

461129

The Program Integrity Assurance (PIA) team is in the process of reviewing all Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the federal universal service program. We are currently in the process of reviewing your Funding Year 2005 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below.

ITEM 1.

For the entity (or entities), listed below, we do not have the associated FCC Registration Number (FCC RN). The FCC, in its Fifth Report and Order, requires that all entities that currently participate in the Schools and Libraries Support Mechanism have an FCC Registration Number. This requirement applies to schools, libraries, non-instructional facilities, consortium leaders, service providers and consultants.

If you already have an FCC Registration Number for this entity, please provide that FCC Registration Number.

BILLED ENTITY NUMBER	ENTITY NAME	FCCRN (Must be 10 digits)
129890	SYCAMORE COMM SCHOOL DISTRICT	0011565918

If you do not yet have an FCC Registration Number, you can obtain one by applying to the FCC, at <http://www.fcc.gov>. Click on link for CORES (Commission Registration System), or go directly at the FCC CORES registration site at <https://svartifoss2.fcc.gov/cores/CoresHome.html>.

After obtaining the FCC Registration Number, please provide the FCC Registration Number.

Additional guidance on this topic and filing tips are located in the Reference area of our website, under "FCC Registration Numbers."

You will need your Taxpayer Identification Number (TIN) to obtain an FCC Registration Number. Many entities can have the same TIN (for example, individual schools in a school district). For some employers, including state and local government agencies and non-profit organizations, the TIN is the IRS-issued Employer Identification Number (EIN).

ITEM 2.

For FRN 1267360 for Internet Access services, please provide a statement that the services will only be delivered to eligible users at eligible locations. The rules of this support mechanism do not allow for services or products to be provided to residential homes or other non-school/library facilities (i.e., students and teachers may not dial in from home to access the Internet; there can be no community access, etc). "Remote access" where users from any location use their own Internet account to access school or library information, is eligible for funding. If this funding request for Internet Access is strictly limited to services used only at eligible locations by eligible users, then please confirm in writing the following:

"The Internet Access service for which I seek discounts will be strictly limited to providing services only at eligible locations and used only by eligible users. Access to the Internet will not be provided to homes or other non-school or non-library sites."

(Signed)

(Name)

(Title)

(Date)

Mark E. Souders
Mark E. Souders
Director of Technology
12/2/05

The above statement must be signed and dated. If you are unable to make such a statement, because the statement is not correct, please indicate such.

ITEM 3.

On your form 471 for Application #461129, Block 4, for the following Entity; line 9 was checked with a "Y", indicating Pre-K, Adult Ed or Juvenile Justice. Please state which of these (3) applies to this school.

1. SYMMES ELEMENTARY SCHOOL

Entity # 49634.

Pre-K Y, Adult Ed _____, Juvenile Justice _____

Based on your response above please complete the table and information below.

Cost Allocation of services.

PRE-K		ADULT EDUCATION		JUVENILE JUSTICE	
YES/NO	# of students(a)	YES/NO	# of students(a)	YES/NO	# of students(a)
Yes	61				

If there is a PRE-K / JUVENILE JUSTICE / ADULT-ED program, are residential facilities/dorms also present at this entity? YES/NO No

Total # of students enrolled in the school (b) = 494

Percentage of Students (a/b x 100) = 12.3 %

Dollars allocated to these students = \$ 27,095.81

Comments
(optional)

PLEASE SIGN.

NAME: Mark E. Souder

TITLE: Dir of Technology

DATE: 12/2/05

ITEM 4.

FRNs 1343919 & 1343989 are listed as a tariff (T) or month-to-month (MTM) service, and Funding Year 1/2/2004 Form 470 Application Number 685410000491286 is referenced as the establishing Form 470 for this service. The rules of this support mechanism require that services delivered on a tariff or month-to-month basis be posted for 28-Days to a new Form 470 each funding year. Since the referenced Form 470 was not filed in the same Funding Year as the Form 471, the request is in violation of the competitive bidding requirements relating to tariff and month-to-month services. Please answer the following questions and provide any relevant documentation.

(A) Is there a Funding Year 2005 Form 470 that established the bidding for this tariff or month-to-month service? YES ☒ NO ☐ 483560000518441
If so,

(B) Please provide the 15-digit Form 470 Number that established the bidding for this request. The establishing Form 470 is the specific Form 470, which was posted for the services requested for 28 days, and pursuant to which a contract was signed or an agreement was entered into. For a request in the Basic Maintenance service category, it is possible that the establishing 470 was filed under an Internal Connections service category. The

establishing Form 470 could have been posted by the State, if the requested services are being purchased off of a State Master Contract.

If a Funding Year 2005 Form 470 was not filed to establish the bidding for this service, please indicate such in writing.

ITEM 5.

For **FRN 1267360**, the Contract Award Date **1/29/2004** for the services requested is before the Allowable Contract Date **1/30/2004** of the cited Form 470. (**685410000491286**)

The rules of this support mechanism require that the CAD be after the ACD. Please answer the following question, and provide the requested documentation as indicated:

Please provide

- (i) a copy of the full contract, signed and dated by both parties, to verify the correct CAD, and
- (ii) also verify if the referenced Form 470 is **the establishing Form 470** for the services to the entity on this Form 471.

If the referenced Form 470 is NOT the establishing Form 470, please provide the 15-digit Form 470 Number that did establish the bidding for the FRN.

48356 0000 518 441

The establishing Form 470 is the specific Form 470, which was posted for that particular service for 28 days, and pursuant to which a contract was signed or an agreement was entered into. For a request in the Basic Maintenance service category, it is possible that the establishing 470 was filed under an Internal Connections service category. The establishing 470 could have been posted by the State, if the requested services are being purchased off of a State Master Contract. If the contract is a State Master Contract, you do not have to submit a copy of the signed contract if that contract is available online or has already been submitted to PIA. Please provide us with the contract name and number of the State Master Contract. If you have already submitted the relevant contract information in connection with another review, please provide the application number involved so that we can locate the documentation in our files.

ITEM 6.

(i) On your original Form 471 you indicated that Form 470# (**685410000491286**) is the establishing Form 470 for the service requested in **FRN 1343919**. This FRN is for **Telecommunications service**, but the referenced Form 470 did not post for this service category, which is a violation of the competitive bidding requirements of this support mechanism. **48356 0000 518 441**

(ii) On your original Form 471 you indicated that Form 470# (**685410000491286**) is the establishing Form 470 for the service requested in **FRN 1343989**. This FRN is for **Telecommunications service**, but the referenced

Form 470 did not post for this service category, which is a violation of the competitive bidding requirements of this support mechanism.

(a) Please verify if the referenced Form 470 is the establishing Form 470 for this service.

(b) If the referenced Form 470 is NOT the establishing Form 470,

Please provide the 15-digit Form 470 Number that did establish the bidding for this service.

The establishing Form 470 is the specific Form 470, which was posted for that particular service for 28 days, and pursuant to which a contract was signed or an agreement was entered into. For a request in the Basic Maintenance service category, it is possible that the establishing 470 was filed under an Internal Connections service category. The establishing Form 470 could have been posted by the State, if the requested services are being purchased off of a State Master Contract.

Please fax or e-mail the requested information to my attention. If you have any questions, please feel free to contact me.

It is important that we receive all of the information requested so we can complete our review. **Failure to do so may result in a reduction or denial of funding.**

Should you wish to cancel this application, or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s); along with the application number and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Please send the required information within seven calendar days. If you need additional time to prepare your response, please let me know as soon as possible.

Thank you for your cooperation and continued support of the Universal Service Program.

John E. Harvey Jr.

Associate Manager,
Schools & Libraries Division
E-Rate Program

Tel: 973-581-5088

Fax: 973-599-6523

e-mail: jharvey@necaservices.com

Have a great day!



Date: 01/27/2006

To: Universal Service Administrative Company
Letter of Appeal
Schools and Libraries Program
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany NJ 07981

From: Mark Souders
Director of Technology
Sycamore Community Schools
5040 Aldine Drive
Cincinnati OH 45242
Voice: (513) 686-1790
Fax: (513) 792-4740
soudersm@sycamoreschools.org

Re: Funding Commitment Decision Letter (Appeal) Funding Year 2005

Number of pages = 2

*Faxed
1/27/06
9:35 AM*

Date: 01/24/2006

To: Universal Service Administrative Company
Letter of Appeal
Schools and Libraries Program
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany NJ 07981

From: Mark Souders
Director of Technology
Sycamore Community Schools
5040 Aldine Drive
Cincinnati OH 45242
Voice: (513) 686-1790
Fax: (513) 792-4740
soudersm@sycamoreschools.org

Re: Funding Commitment Decision Letter (Appeal) Funding Year 2005

I am appealing the decision not to fund FRN# 1267360 in the FCDL dated 01/19/2006 because of the 28 day waiting violation.

I mistakenly referenced the wrong 470 Application # when filing the 471. This is the second year of a three year contract that was funded last year. Please reference the incorrect and correct 470 application numbers below.

Thank you for your consideration.

Billed Entity #	129890
471 Application #	461129
Funding Request #	1267360
SPIN#	143024403
Service Provider	Hamilton Clermont Cooperative Association

Incorrect 470 Application #	483560000518441
Correct 470 Application #	650410000488364

Mark E. Souders





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2005-2006

February 28, 2006

Mark E. Souders
Sycamore Community Schools
5040 Aldine Drive
Cincinnati, OH 45242

Re: Applicant Name: SYCAMORE COMM SCHOOL DISTRICT
Billed Entity Number: 129890
Form 471 Application Number: 461129
Funding Request Number(s): 1267360
Your Correspondence Dated: January 24, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2005 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1267360
Decision on Appeal: **Denied**
Explanation:

- On appeal, you seek reversal of SLD's decision to deny this request for signing a contract prior to the 28-day waiting period computed from the date of the posting of the Form 470 to the SLD Web Site. You state that you mistakenly referenced the wrong Form 470 application number when filing the Form 471. This is the second year of the a three year contract that was funded last year. You reference that the incorrect Form 470 application number was 483560000518441, and the correct Form 470 application number is 650410000488364.
- Upon review of the appeal letter and relevant supporting documentation, it was determined that the original request was denied since the Contract Award Date (CAD) was before the Allowable Contract Date (ACD) of the establishing Form 470. During initial review of your Form 471, you were contacted and informed

that the CAD (January 29, 2004) for the services requested was before the ACD of the referenced Form 470 (application number 658410000491286). The rules of this support mechanism require that the CAD be after the ACD. On December 6, 2005, you responded in a fax that the establishing Form 470 is application number 483560000518441. The ACD of this Form 470 was January 18, 2005. On January 3, 2006, you provided a copy of the contract which verified the CAD as January 29, 2004. On appeal, you explain that you made a mistake on the establishing Form 470 and provided that the correct Form 470 is application number 650410000488364. Program rules do not permit the SLD to accept new information on appeal except where an applicant was not given opportunity to provide information during the initial review or an error was made by SLD. It is the responsibility of the applicant to ensure that all Forms are submitted to SLD in a timely and correct manner. In order to meet competitive bidding requirements, program guidelines require applicants to wait 28-days before entering an agreement with service providers.

- The Item 21 attachments you provided in support of your Form 471 application, or documentation provided during review of your application, show that you selected your vendor prior to the end of the 28-day posting period. In your Receipt Notification Letter, SLD notified you that the earliest date upon which you could sign a contract or enter into an agreement (your Allowable Contract Date) was January 18, 2005. Consequently, SLD denies your appeal because your application did not comply with the competitive bidding requirement that your Form 470 be posted on the web site for 28 days prior to signing a contract or entering into an agreement for new products and/or services.
- You selected your vendor for new services prior to the expiration of the 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471. 47 C.F.R. §§ 54.504; 54.511(a) and (c). FCC rules further require that the Administrator send the applicant a confirmation when the Form 470 has been posted, and inform the applicant of the earliest date upon which they may sign a contract with the vendor it selects. 47 C.F.R. § 54.504(b)(4). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Order on Reconsideration*, 12 FCC Rcd 10095, p. 10098; FCC 97-246 ¶ 9 (rel. Jul. 10, 1997). New services include tariff telecommunications services that are NOT subject to an existing, binding, written contract.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the

Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company